

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Petition of NPCR, Inc. d/b/a Nextel Partners	)	
for Designation as an	)	
Eligible Telecommunications Carrier	)	
in the State of Virginia	)	

**COMMENTS OF THE NTELOS TELEPHONE COMPANIES**

NPCR, Inc d/b/a Nextel Partners (“Nextel”) seeks designation as an Eligible Telecommunications Carrier (“ETC”) for the purpose of receiving universal service support in Virginia pursuant to Section 214 (e) of the Telecommunications Act of 1996. Nextel’s Virginia petition is one of several “cookie cutter” petitions filed recently by that carrier. Alltel Communications has also filed petitions for several states, including Virginia, seeking ETC designations for its wireless subsidiary.

NTELOS Inc. is the parent company of two rural Incumbent Local Exchange Carriers operating in Virginia, NTELOS Telephone Inc. (formerly CFW Telephone Inc.) and Roanoke and Botetourt Telephone Company (collectively the “NTELOS Telephone Companies”). NTELOS also has extensive wireless operations in Virginia and West Virginia, competing with Nextel and other wireless carriers.

The NTELOS Telephone Companies, along with a number of other Virginia rural incumbent local exchange carriers, filed Comments in response to an ETC petition filed by Virginia Cellular. That petition raised precisely the same policy issues as does the Nextel petition. Therefore, the NTELOS Telephone Companies have included a copy of those comments as Exhibit A hereto.

I. The Federal Universal Service Mechanisms are in Danger of Failing in their Core Mission of Ensuring Affordable Service in Rural Areas

The core purpose of universal service support has always been and continues to be to help telephone companies in high-cost areas to make the investments in infrastructure and to assure that rural customers have reasonably-priced, quality telecommunications services. But the 1996 Act and access reform have caused profound changes in the traditional universal service mechanisms.<sup>1</sup> There is grave concern among rural ILECs that these support mechanisms -- on which they absolutely depend -- are in jeopardy. The rural companies are carriers of last resort with long-standing commitments to providing telecommunications services in their communities. Indeed, both of the NTELOS Telephone Companies have been providing quality telephone service for more than a century. Without universal service support, the ability of rural ILECs to continue to provide state-of-the-art services at reasonable prices is at risk.

For now, the universal service funding that Nextel seeks would be in addition to the support received by the NTELOS Telephone Companies - except in the circumstance where a customer discontinues wireline service altogether and relies solely on wireless

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<sup>1</sup> For example, the Interstate Common Line Support (ICLS) mechanism created as part of access reform has made rural companies even more dependent on universal service funding.

service from Nextel. But how much longer can that situation continue? There are six wireless carriers serving Waynesboro and Daleville, which are the main wire centers of the NTELOS Telephone Companies. Each of those wireless carriers could make the same assertions that Nextel makes in its petition. What are the long-term implications for the size of the fund if those six carriers (or more) were to receive funding? The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) has estimated that the high cost fund alone would increase at least \$2 billion if all wireless carriers nationwide were granted ETC status.<sup>2</sup> Given the magnitude of that increase, one must recognize that drastic cuts in funding are a distinct possibility. And while such cuts may cause wireless ETCs to re-examine some aspects of their business plans, decreases in funding would be disastrous for rural ILECs.

In response to these and other concerns, the Federal-State Joint Board on Universal Service recently received comment on the issues presented by the Nextel petition.<sup>3</sup> The Commission should stay the proceedings on Nextel's petition, and on the other pending ETC petitions for Virginia, until the Joint Board and Commission have had the opportunity to consider the comments and address the issues.

## II. Nextel Has Not Satisfied Its Burden of Proof

Nextel submitted its ETC petition to the FCC without serving copies on the NTELOS Telephone Companies. We were alerted to the existence of the petition when it appeared in the July 2, 2003 Federal Register. In such a limited time, it has not been possible for the NTELOS Telephone Companies to investigate the factual assertions in

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<sup>2</sup> See Stuart Polikoff, Universal Service in Rural America: A Congressional Mandate at Risk at 21.

the Nextel petition. Based upon the knowledge we do have, however, the NTELOS Telephone Companies are skeptical about whether Nextel actually has wireless coverage in all the areas it alleges. Nextel, as the petitioner, bears the burden of proving its coverage area and of showing that it provides all of the requisite features of a universal service offering. Nextel has made only conclusory statements in this regard, unsupported by facts. The FCC should not rely on the unsupported assertions in the petition, particularly in connection with service areas of rural telephone companies. In those areas, Nextel bears a higher burden under the statute to be certified to receive universal service funding.

### III. The FCC Should Also Consider the Effect in the Wireless Industry of Granting the Petition

As stated above, NTELOS has significant wireless operations in Virginia and West Virginia. The Commission is well aware that competition in the wireless business is fierce. Margins are such that, if one wireless competitor obtains ETC status, its wireless competitors in that area have no choice but to seek ETC status as well. Because we are familiar with the wireless marketplace in Virginia, the NTELOS Telephone Companies finds Nextel's assertion that Nextel wishes "to compete with other carriers on a level regulatory playing field" particularly disingenuous. Certifying Nextel will absolutely create an uneven field among wireless carriers. Similarly, Nextel's statement that "... the mobility and functionality of wireless phone service adds immense benefits and convenience to wireless users that wireline providers cannot match" might be interpreted to say that wireless service is not now available in these areas. Nothing could

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<sup>3</sup> See Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and ETC Designation Process Public Notice released February 27, 2003, 18 FCC Rcd 1941 (2003).

be further from the truth. Customers of the NTELOS Telephone Companies already have access to wireless services from numerous competitors. Giving Nextel USF funding does not transform its services into anything new or different from what customers receive today.

#### IV. Conclusion

Ensuring that rural customers have access to affordable, quality telecommunications service is a critical mandate of the Federal Communications Act. Universal Service support mechanisms must remain sufficient to that task without unduly burdening those customers who ultimately contribute the funding. The Federal-State Joint Board on Universal Service recently received comment on the issues presented by Nextel in seeking ETC certification for areas served by rural ILECs. The Commission should stay the proceedings on Nextel's petition, and on the other pending ETC petitions for Virginia, until the Joint Board and Commission have had the opportunity to act on those issues.

Respectfully submitted,

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Dated: July 14, 2003

**Exhibit A**

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of	)	
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Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
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Petition of Virginia Cellular LLC	)	
For Designation as an Eligible Telecommunications	)	
Carrier in the State of Virginia	)	

**COMMENTS OF VIRGINIA RURAL TELEPHONE COMPANIES**

Buggs Island Telephone Cooperative, Inc., Citizens Telephone Cooperative, Inc., Highland Telephone Cooperative, MGW Telephone Company (formerly known as Mountain Grove-Williamsville Telephone Company), New Hope Switchboard Association (doing business as New Hope Telephone Company), North River Telephone Cooperative, NTELOS Telephone Inc. (formerly Clifton Forge-Waynesboro Telephone Company), Pembroke Telephone Cooperative, Shenandoah Telephone Company, and TDS Telecom (collectively the “Virginia Rural Telephone Companies” or the “Virginia RTCs”) submit the following comments regarding Virginia Cellular LLC’s (“Virginia Cellular”) application for designation as an Eligible Telecommunications Carrier (ETC) in the Commonwealth of Virginia.<sup>4</sup> Many of the Virginia RTCs are directly affected by Virginia Cellular’s petition. And all are interested parties, including Citizens Telephone

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<sup>4</sup> See *Virginia Cellular LLC Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia*, CC Docket 96-45, filed April 26, 2002 ( hereinafter “*Virginia Cellular Petition*”)

Cooperative, Pembroke Telephone Cooperative, Buggs Island Telephone Cooperative, and TDS Telecom, because the issues raised by the petition are critical to all rural telephone companies in the state.

Virginia Cellular seeks ETC designation for the purpose of receiving universal service support pursuant to Section 214 (e) of the Telecommunications Act of 1996. The first part of these comments address the policy issues raised by Virginia Cellular's petition. The second and third sections focus on specific proposals made by Virginia Cellular. Section IV contains information and concerns unique to individual Virginia RTCs.

Virginia Cellular's application for ETC status raises issues that have never been considered in Virginia, and with which the FCC has had only limited experience. Specifically, this is the first time in Virginia that any competing carrier, wireline or wireless, has sought ETC status in areas served by rural telephone companies. In addition, Virginia Cellular is requesting ETC status to serve only a portion of the study areas of some of those rural telephone companies.

I. The Federal Universal Service Mechanisms are in Danger of Failing in the Core Mission of Ensuring Affordable Service in Rural Areas

The Virginia Rural Telephone Companies have provided quality telecommunications services for many decades in geographic areas where universal service support is crucial to keeping telephone rates affordable to customers and to providing modern telecommunications. Over the years, that support has come in both implicit and explicit forms. Each company is the carrier of last resort in rural areas, with

obligations to comply with a range of regulatory mandates imposed by state and federal authorities. The core purpose of universal service support has always been and continues to be to help telephone companies in high-cost areas to make the investments in the infrastructure and to assure that rural customers have reasonably-priced, quality telecommunications.

With the creation of the Interstate Common Line Support (ICLS) mechanism as part of the MAG Order, rural companies will become even more dependent on universal service funding. In a short time, the Virginia RTCs will begin receiving a portion of their common line costs from the ICLS that were previously recovered in interstate access charges. As a consequence, rural telephone companies that previously received little or no funding from the federal high cost fund will now depend on the ICLS. While the FCC has not capped the ICLS, there are requests for reconsideration pending to cap the fund.

There is no claim by Virginia Cellular that any of the areas in its petition are currently unserved. There is indeed an incumbent ETC in all these areas. For now, the universal service funding that Virginia Cellular seeks would be in addition to the support received by that current ETC - except in the unusual circumstance where a customer discontinues wireline service altogether and relies solely on wireless service from Virginia Cellular. But how much longer can that situation continue? Allowing a multitude of carriers to receive ETC status will place significant demands on the federal USF. For example, there are six wireless carriers in Waynesboro and Augusta County where Virginia Cellular seeks certification. Each of those carriers could make the same assertions that Virginia Cellular makes in its petition. What are the implications for the size of the universal service fund?



The 1996 Act and access reforms have resulted in profound changes in traditional universal service mechanisms. Today, there is concern throughout the industry that the funding mechanisms are unsustainable, both in the sense of the size of the fund and in the way that funding is assessed and collected. The Virginia RTCs share the concerns as stated on page 5 of the Alabama Public Service Commission's Comments,<sup>5</sup> :

“The demands on the universal service fund have grown substantially since the 1996 Act. The fund size can not continue to increase unnecessarily.”

There is a widespread recognition that there must be changes made to the universal service system if it is to accomplish its core purpose. Yet it is unclear how or when such changes will be made. It is possible that a drastic cut in available universal service funding could occur. And while that would certainly require new ETCs to re-examine their business plans, it would be disastrous for many rural ILECs.

The Virginia Rural Telephone Companies do not wish to burden the FCC's processes or delay its decision on the Virginia Cellular Petition. At the same time, they have a very real concern that the decisions that the FCC makes in individual ETC applications – and those that the various state commissions are making across the country – will further complicate the larger universal service issues that must be resolved.

II. The Virginia Cellular ETC Petition Raises Questions of Whether Virginia Cellular Actually Meets the Applicable Standard

In order to be designated as an ETC, a common carrier must offer all of the

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<sup>5</sup> *Alabama Public Service Commission Comments on the Federal-State Joint Board on Universal Service: RCC Holdings, Inc.'s Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area In the State of Alabama*, CC Docket 96-45, filed May 23, 2002

services included in the definition of universal service throughout the service area for which the ETC designation applies. These services currently are:

- voice-grade access to the public switched network, including some amount of local usage
- dual tone multi-frequency signaling or its equivalent
- single-party service
- access to emergency services
- access to operator services
- access to interexchange service
- access to directory assistance
- lifeline service
- toll limitation for qualifying low-income consumers.

In addition to offering the services included in the definition, carriers must advertise the availability of such services and their related charges using a media of general distribution.

Reading the Virginia Cellular Petition carefully highlights some potential deficiencies. For example, the company has not yet upgraded from analog to digital and until that is accomplished, it appears that Virginia Cellular cannot effectively implement E911 or CALEA. (*See Virginia Cellular Petition, pages 1, 2*) While Virginia Cellular states that it will comply with any future “local usage requirements” adopted by the FCC, it appears that its current service offering includes no local usage. (*See Virginia Cellular Petition, pages 5, 6*) While Virginia Cellular customers can dial “911”, it is unclear whether the company can support the E911 capabilities that many of these Virginia communities have implemented. (*See Virginia Cellular Petition, page 7*) Virginia Cellular clearly states its customers will not have equal access to interexchange carriers. (*See Virginia Cellular Petition, pages 7, 8*) On Lifeline service, the company indicates only that it will participate “as required”. (*See Virginia Cellular Petition, page 8*) And although Virginia Cellular claims that it can provide voice-grade access to the public

switched telephone network throughout its license area (*See Virginia Cellular Petition, page 5*), wireless signals are sporadic in mountainous regions such as the area served by Virginia Cellular. Signals can be unavailable to whole sections of a community because of the terrain. While the quality of service and other requirements applicable to ILECs in Virginia will not technically apply to Virginia Cellular, its universal service customers have a right to expect a satisfactory level of service.

It appears that Virginia Cellular intends to qualify for ETC using the mobile telephone service it now provides to customers as its universal service offering. Mobile telephone service is, for most customers, an addition to wireline service rather than fulfilling basic universal service needs. The approach by Virginia Cellular is different from that taken by Western Wireless, another wireless carrier, that has sought ETC status in many states. Western Wireless has introduced “wireless local loop service” and is an active participant in both Link-Up and Life Line programs.<sup>6</sup>

When Virginia Cellular submitted its ETC application initially to the Virginia State Corporation Commission, the Virginia Telecommunications Industry Association (“VTIA”) (to which all of the Virginia Rural Telephone Companies belong) requested that the Virginia Commission hold a hearing. That hearing would have given all interested parties an opportunity to ask questions and to understand the implications of this ETC request. The Virginia Rural Telephone Companies understand that the FCC’s process cannot easily accommodate such a proceeding. Nevertheless, the Virginia RTCs urge the FCC to meaningfully examine Virginia Cellular’s plans for offering universal

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<sup>6</sup> *See Comments of Western Wireless Corporation filed In the Matter of Federal-State Board on Universal Service*, CC Docket 96-45, on December 31, 2001 and April 22, 2002.

service and the public interest implications of this ETC request, rather than relying on the unsupported assertions in the petition.

In the past, the Virginia State Corporation Commission staff has held informal “workshops” on issues affecting multiple companies in the industry. Perhaps a joint workshop involving the Virginia State Corporation Commission’s staff, Virginia Cellular, and interested parties would be a useful tool for exploring these issues.

III. The FCC Must Consider that Additional Public Policy Issues Raised by Virginia Cellular’s Request to Serve only Portions of Rural Telephone Company Service Areas

Virginia Cellular’s proposed serving area does not match the certified ETC service area of rural ILECs. In the case of an area served by a rural telephone company, “service area” means such company’s “study area” unless and until the Federal Communications Commission (FCC) and the Virginia Commission establish a different definition of service area for the company. Virginia Cellular points out that it does not offer service in the entire service/study areas of MGW Telephone Company, NTELOS Telephone, and Shenandoah Telephone Company. The FCC has made clear that neither it nor a state commission may act alone to alter the definition of service areas served by rural carriers. Thus, the FCC must seek the concurrence of Virginia regulators if it is to redefine the study areas of these three rural companies.

IV. Specific Information about the Virginia Rural Telephone Companies

New Hope Telephone Company

New Hope Telephone Company is a very small incumbent local exchange carrier serving less than 1,000 lines in a rural area of Augusta County. The company’s formal

name is New Hope Switchboard Association. It is a Member Association, the only telephone company of its kind in Virginia and one of a very few in the nation. New Hope began business in 1902, started by area farmers to provide an affordable means of communication between the community and the “outside world”. New Hope Telephone Company continues to provide affordable telephone service with the latest technology to its members but with annual revenues of just over \$650,000, it would be difficult to provide the service its members deserve without the help of universal service funding. New Hope has only 57 business lines, compared to 934 residential lines. Its customers are spread across approximately 50 square miles of varying terrain. New Hope’s universal service funding is vital to its ongoing efforts to upgrade both inside and outside plant facilities.

#### North River Telephone Cooperative

North River Telephone Cooperative is a small co-op located in rural Augusta County serving 1,060 lines. The cooperative’s members are primarily farmers and are thinly spread throughout its service area. North River’s costs, particularly its loop costs, are high. The cooperative’s total annual revenues are less than \$700,000 but the universal service support it receives makes it possible for North River to deliver quality service to its customers. North River Telephone Cooperative believes that permitting a wireless ETC to receive the same universal service support amounts to a windfall for that carrier because its costs are not the same as North River’s costs. North River shares the concern expressed by others in the industry that this outcome places a significant strain on universal service funding.

### Highland Telephone Cooperative

Highland Telephone Cooperative serves a total of 1,450 access lines spread across approximately 216 square miles in Highland County, Virginia. Only 334 of these lines are business lines and the remainder are residential. Highland County has a total population of less than 2,600 people and has very little industry anywhere in the county and no real economic growth. Highland Telephone serves the western portion of this rural county and its subscriber density is only 6.7 access lines per square mile. Highland Telephone's revenues are stagnant and it serves many elderly subscribers who are on fixed incomes. In this challenging environment, Highland Telephone's universal service support has allowed it to keep its switches upgraded to the latest technology. That support made it possible for Highland to install fiber optic cable between its main switch and its switching remotes and continue to offer low monthly rates to its subscribers. Highland Telephone Cooperative estimates that Virginia Cellular provides coverage -- with known dead spots -- to only a quarter of Highland's service area.

### MGW Telephone Company

MGW Telephone Company serves 430 customer lines in Highland County; 380 customer lines in Augusta County; and also provides service to three all-rural communities of Bath County. The subscriber density in MGW's total service area of 580 square miles is approximately 2.1 customers per square mile. MGW has provided single-party service to its customers for over 25 years. All of the company's switching centers have been digital since 1995, and its interoffice network has been digital since 1988. In 1994, MGW began a fiber optic network upgrade and three of its five switches are connected via fiber optics with fiber connectivity to the fourth switch in progress. MGW

provides state-of-the-art telecommunications service to all of its customers at affordable rates—something that would not be possible in this very rural area but for universal service support.

Wireless signals do not reach many of the areas that MGW serves in Highland and Augusta counties. The mountainous terrain makes it very difficult to achieve effective wireless coverage. The fact that MGW Telephone’s entire service area is in a “Quiet Zone” makes coverage significantly more challenging because of the reduced signal level requirements. Virginia Cellular has asked that the FCC redefine MGW’s study area. MGW objects to that request, particularly given the lack of effective wireless coverage in the portions of MGW’s study area that are part of RSA 6.

#### Buggs Island Telephone Cooperative

Buggs Island Telephone Cooperative was formed in 1950 and serves approximately 4,000 access lines in the South Central Virginia counties of Mecklenburg and Brunswick. Buggs Island customers have modern telecommunications services utilizing current technologies, including some DSL for high-speed internet service. The cooperative’s study area extends throughout 180 square miles, with a density of just over 9 subscribers per cable mile. Buggs Island Telephone has 15 employees and over \$7 million invested in its plant facilities.

The highest density areas are pocketed in subdivisions around Lake Gaston and a considerable number of the cooperative’s members are retirees. Long loops and distribution cables prevail because the lake areas are considerable distances from feeder routes. Fiber and field electronics are included in the network where feasible to ensure state-of-the-art service availability. The cooperative is currently pursuing a large loan to

improve and expand its facilities and to finance a major (\$1 million) upgrade to its host switch. Universal service support is imperative to Buggs Island Telephone's ability to meet the needs of its customers.

#### NTELOS Telephone Inc

NTELOS Telephone receives no funding from the High Cost Universal Service Fund. However, the company does participate in the NECA Common Line pool and so receives Long Term Support and Local Switching Support.

Virginia Cellular proposes to serve only the Waynesboro exchange of NTELOS' study area, not the other three exchanges. Because the exchanges of Covington, Clifton Forge, and Potts Creek are not part of RSA 6, Virginia Cellular's position is understandable from its own perspective. Yet the potential for "cream skimming" here cannot be ignored. The Waynesboro exchange contains over 24,000 lines in contrast to approximately 9,000 in Covington, 5,550 lines in Clifton Forge, and just over 700 lines in Potts Creek. The other three exchanges combined contain less than half the number of business lines as the Waynesboro exchange's 9,250. NTELOS continues to average its support across the four exchanges because any disaggregation would have resulted in extremely dramatic increases in the support needs in Covington, Clifton Forge, and Potts Creek. Given the unique circumstances presented by the concentration of lines in the Waynesboro exchange compared to the other three, the redefinition of NTELOS' study area requested by Virginia Cellular is not in the public interest.

#### Pembroke Telephone Cooperative

Pembroke Telephone Cooperative is a small rural co-op that serves 3,059 access lines in Giles and Craig Counties. These lines stretch across 177 square miles of



predominately farmland but includes the town of Pembroke and villages of Newport and Eggleston. Pembroke has 437 business lines, compared to 2,622 residential subscribers. Pembroke offers internet and DSL services and has recently upgraded its switching platform in order to provide its customers with the latest state-of-the-art communications at affordable costs. Pembroke is very concerned that granting ETC status to additional carriers will place a significant burden on universal service funding.

#### Shenandoah Telephone Company

Shenandoah Telephone receives no funding from the High Cost Universal Service Fund. However, the company does participate in the NECA Common Line and Traffic Sensitive pools and so receives Long Term Support and Local Switching Support.

Virginia Cellular proposes to serve only the Bergton exchange of Shenandoah's study area, and not its other eight exchanges. Most of these other exchanges are not part of RSA 6, although small areas of Shenandoah's New Market exchange are part of RSA 6. Bergton contains only 466 access lines (41 business and 425 residential) out of Shenandoah's 24,653 total access lines (5,636 and 19,017 residential) as of the end of 2001. With 144.8 route miles of telephone facilities and approximately 53 square miles of service territory (out of Shenandoah's 591 total square miles), Bergton is Shenandoah's lowest density exchange, and therefore its highest cost exchange to serve. Shenandoah continues to average its support across all nine of its exchanges because any disaggregation would have resulted in staggering increases in the support needs in Bergton. Given the disparity in geography between Shenandoah's exchanges, the redefinition of Shenandoah's study area requested by Virginia Cellular is not in the public interest.

## CONCLUSION

The Virginia Rural Telephone Companies appreciate the opportunity to raise their concerns about Virginia Cellular's ETC Petition and ask that the Commission consider these concerns in reaching its decision.

Respectfully submitted,

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Dated: June 4, 2002

## CERTIFICATE OF SERVICE

I, Mary McDermott, hereby certify that I caused copies of the foregoing Comments of the NTELOS Telephone Companies on Nextel's Petition to be served by First Class Mail, postage prepaid, on July 14, 2003, on the following:

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